

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, x S5 02 Cr. 1237 (SWK)

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x

x

OPINION AND ORDER

-against-

x

x

x

ANGELO DIPIETRO ET. AL., x

x

x

Defendant. x

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**SHIRLEY WOHL KRAM, U.S.D.J.**

Defendants Pizzuti, Genua and Bringman seek to solicit testimony regarding statements by non-party John Perazzo contained within a report of Senior Investigator Steven Hegarty. The statements are inadmissible. Even if the report of Investigator Hegarty is admissible as a business record or public record, which the Court does not decide, statements of a non-party within that report are clearly inadmissible hearsay.<sup>1</sup>

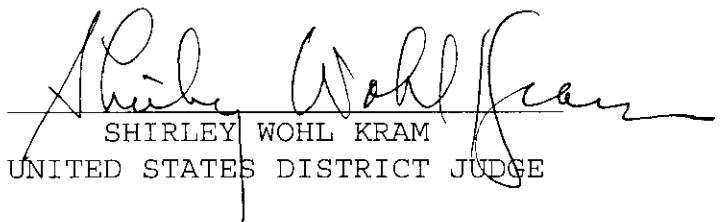
Defendant Capalbo also seeks to introduce one thousand nine hundred and thirteen audiotapes from wiretaps on the phones Defendant Michael Pizzuti and non-party John Perazzo. As support for the introduction of these tapes, defendant relies on Federal Rule of Evidence ("F.R.E.") 106. The application is without merit, as neither F.R.E.

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<sup>1</sup> The cases cited by Defendant Pizzuti in support of introducing Perazzo's statements provide no legal basis for admission.

106, nor any other evidentiary rule for that matter,  
provides any basis for introduction of the tapes.

SO ORDERED.

  
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SHIRLEY WOHL KRAM  
UNITED STATES DISTRICT JUDGE

Dated: May 12, 2005  
New York, New York